

IN THE CIRCUIT COURT OF MARSHALL COUNTY, WEST VIRGINIA  
BUSINESS COURT DIVISION

AXIAL CORPORATION and  
WESTLAKE CHEMICAL  
CORPORATION,  
Plaintiffs,

vs.

NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA., *et al.*,  
Defendants.

Civil Action No.: 19-CV-59  
Presiding Judge Wilkes  
Resolution Judges Carr and Nines

JOSEPH M. FINE

2021 SEP 22 PM 1:11

FILED

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTION  
TO STRIKE PLAINTIFFS' STATEMENT OF MATERIAL FACTS

This matter came before the Court this 22nd day of September 2021, upon  
Defendants' Motion to Strike Plaintiffs' Statement of Material Facts.

This matter surrounds an insurance coverage dispute involving Defendants' alleged failure to cover Plaintiff Westlake Chemical Corporation for property damage at its Marshall County, West Virginia plant caused by a railroad tank car rupture and resulting chlorine release that occurred in August 2016. *See* Compl.

On a prior day, the Court set forth a scheduling order, setting forth briefing for dispositive motions, as well as a separate schedule for briefing for dispositive motions on the issue of coverage. *See* Ord. 2/18/21; *see also* Ord. 8/18/21. In compliance with the Court's scheduling order, Plaintiffs filed four dispositive motions on the issue of coverage on or about September 17, 2021. Along with these motions, Plaintiffs contemporaneously filed Plaintiffs' Statement of Material Facts.

On or about September 20, 2021, Defendants filed the instant Motion to Strike Plaintiffs' Statement of Material Facts, arguing this separate pleading goes beyond the twenty-page page

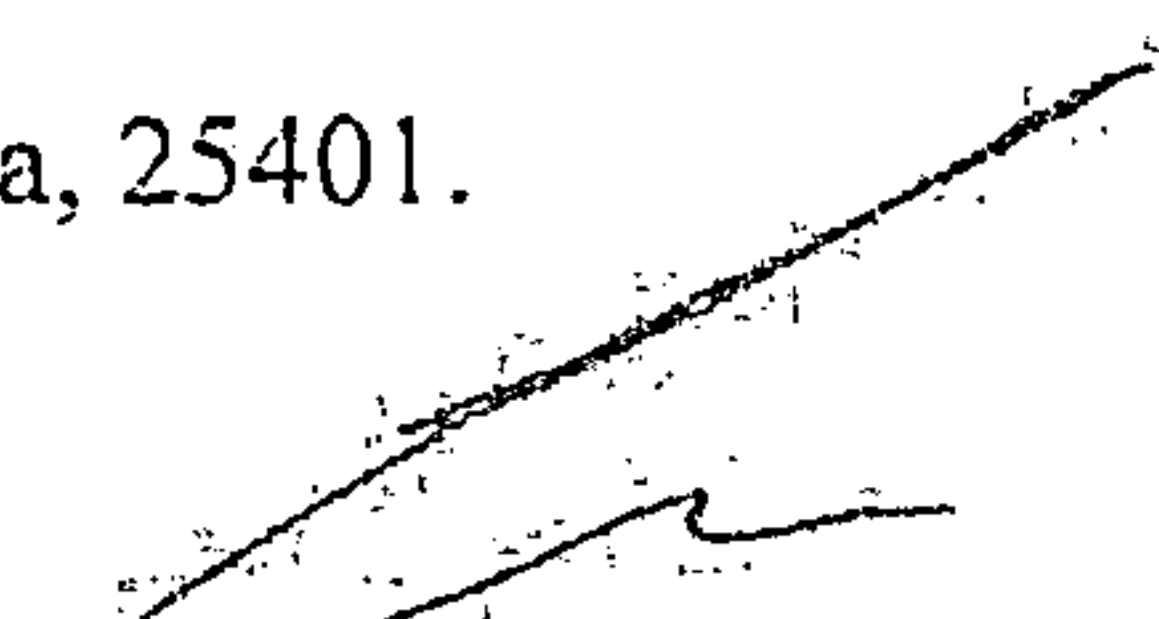
limit prescribed by Trial Court Rule 22. *See* Def's Mot., p. 2-3. For this reason, Defendants requested the following the relief: That the Court strike the pleading, or that the Court limit the pleading to twenty pages, or that Defendants be granted leave to respond to the same without the page limitations imposed by Trial Court Rule 22. *Id.* at 3.

The Court, considering the coverage motions for summary judgment, the proffered Plaintiffs' Statement of Material Facts, and considering the fact that the coverage motions could dispose of this civil action, finds a statement of material facts pleading could be helpful to the Court in making its determination. For this reason, the Court will grant Defendants' requested alternative relief, namely that Defendants are granted leave to file its own Statement of Material Facts to respond to Plaintiffs' Statement of Material Facts. *Id.* The Court grants Defendants' request for leave for their statement to exceed the page limit imposed by Trial Court Rule 22. Defendants' statement may exceed the twenty-page page limitation, but may not exceed fifty-six (56) pages, which is the length of Plaintiffs' Statement of Material Facts.

### CONCLUSION

Accordingly, it is hereby ADJUDGED and ORDERED that Defendants' Motion to Strike Plaintiffs' Statement of Material Facts is hereby GRANTED IN PART AND DENIED IN PART.

The Court notes the objections and exceptions of the parties to any adverse ruling herein. The Court directs the Circuit Clerk to distribute attested copies of this order to all counsel of record, and to the Business Court Central Office at West Virginia Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.



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JUDGE CHRISTOPHER C. WILKES  
JUDGE OF THE WEST VIRGINIA  
BUSINESS COURT DIVISION